

Attachment 1 - Key Points in Response to Joint Regulator Agencies' Edits**Air Force Key Points in Response to Joint Regulatory Agencies' Review of Revised Draft Final Record of Decision, Air Force Research Laboratory Arroyos, Operable Unit 4/9, Edwards Air Force Base, California**

It was helpful to receive the Regulatory Agencies' cover letter highlighting the concepts behind many of the proposed revisions. In this Key Points Attachment, the Air Force is briefly highlighting seven primary conceptual concerns to help explain some Air Force edits/responses in the enclosed Air Force markup titled "September DF ROD" to the Regulatory Agencies' markup.

Items (a) and (b) below cover matters that were formally disputed by the regulators in 2014 and addressed by the EPA Region 9 March 2022 Written Position.

- a) *Need to resolve ambiguity in EPA IX Written Position re Building 8753.* The Written Position included Senior Executive Committee (SEC) agreed-upon language that current usage at all existing buildings presents acceptable levels of risk and does not require mitigation measures (p. 1 of Written Position, captured in Section 2.12.2 of the revised ROD). However, the Regulatory Agencies' ROD edits propose a new remedial element for "unoccupied" buildings based on disagreement with prior risk characterizations. The Air Force considers the language from the Written Position regarding "vapor intrusion protection measures" to mean that the Air Force will implement mitigation measures to protect workers required to enter buildings wholly or partially occupied as a best management practice rather than a new remedy element. That was the only way to reconcile potentially conflicting language in the Written Position since if current usage levels do not present unacceptable risk, there is no basis for requiring a remedy beyond maintaining current usage (as reflected in ROD Section 2.12.2).
- b) *Clarification on scope of removal of references to soil remedy/pathway.* On EPA Dispute Issue #6, the June 2022 Dispute Resolution Committee (DRC) Written Decision directs the removal of references to soil pathways in connection with possible confusion whether this ROD includes soil remedies. The Air Force accordingly removed inconsistent or unnecessary references to a soil remedy in the ROD as it will be addressed in a future document. However, the Regulatory Agencies edits propose removal of historic work and all soil references, not just ROD language that could be confusing as to current remedy selection for soils.

Items (c) through (g) address issues and related language changes proposed by the regulators that are outside of the scope of the formal dispute and not appropriate to be raised for resolution eight years after the Air Force provided the draft ROD for review (Federal Facility Agreement requirements specify 30 days). Some requested changes also reopen and/or object to conclusions reflected in other documents on which there was concurrence by all parties.

- c) *New addition of purported risk to human receptors from seep water.* The Regulatory Agencies' edits reflect a conclusion that seep water poses risks to human receptors; they

propose adding a remedy to prevent exposure to “potential residential and industrial receptors” by dermal contact and ingestion. This new proposed language lacks grounds in the Administrative Record, has not been raised previously, is not among the matters subject to dispute resolution, and conflicts with prior risk analyses and conclusions concurred in by the regulators. The only identified foreseeable future human use involving seep water was the occasional maintenance worker, an exposure scenario analyzed during the risk assessment and found to present an acceptable risk under the National Contingency Plan. There is no evidence that seep water would ever provide a complete exposure pathway as a human primary drinking water source for reasons independent of any cleanup concerns (for example, insufficient water quantity since current flow rate is approximately 1 gallon per hour).

- d) *Apparent re-opening of risk characterization and conclusions in prior documents.* The regulator comments underlying both vapor intrusion and seep water appear to reject prior site characterization, risk assessment and site-specific risk decision-making contained in the site’s final Remedial Investigation and Human Health Risk Assessment without identifying any evidence to support a changed conclusion from regulators’ prior concurrence.
- e) *Removal of factual background, including rejecting the term “Site Inspection”.* The Regulatory Agencies propose removing factual descriptions of prior restoration actions involving “site inspection” (SI) under NCP Section 300.420. Not only are these edits not related to this formal dispute in any way, they seem to reflect a recent EPA Region IX view that no Preliminary Assessments/Site Inspections are ever performed at an NPL facility – a position not consistent with the referenced NCP Section or EPA guidance on the definition of a “site” at a federal facility.
- f) *Land Use Control and Applicable or Relevant and Appropriate Requirements (ARARs) language; deviations from prior negotiated language among the Air Force EPA Headquarters, EPA Region IX, and DTSC.* In a prior former formal dispute at the SEC level, specific LUC language was agreed to among the parties for use in RODs going forward. Similarly, the parties negotiated a potential ARARs chart to memorialize what all parties agreed could be an ARAR as applied to a specific selected remedy. The language reflected in the current regulator comments (and to some degree in the 2014 ROD) appears to deviate from both the agreed LUC language and the potential ARAR chart entries – without the knowledge or agreement of Air Force headquarters, and for the latter (chart) without following the procedures specified therein. The Air Force has adjusted the ARARs chart content to reflect what is in the agreed-upon potential ARARs chart from 2014 and for factual applicability.
- g) *Generally expanded scope of regulatory comments beyond any matters in dispute or the Written Decision, including deletions or additions that raise new issues.* Beyond the examples already presented, other proposed edits include eliminating all references to

Edwards AFB restoration sites historically removed from the CERCLA process as requiring No Further Action & eliminating references to EPA guidance documents, *Role of the Baseline Risk Assessment in Superfund Remedy Selection* and the *Risk Assessment Guidance for Superfund* (RAGS), which the Air Force appropriately applied in evaluating site risks. Most of these proposed deletions occur in history or background sections that describe Air Force decision-making in getting to the scope and coverage of this ROD.